

Title	New Probate Form: <i>Confidential Guardianship Status Report</i> (adopt form GC-251).
Summary	A new confidential guardianship status report form would be adopted that guardians could be required to file every year after their appointment.
Source	Probate and Mental Health Advisory Committee
Staff	Douglas C. Miller, 415.865-7535
Discussion	<p>Current law provides for investigations of new probate conservatorships by court investigators, and for investigations of new probate guardianships by court investigators or by child protective services workers provided by county agencies.</p> <p>Current law also provides for investigations of existing probate conservatorships by court investigators at the end of the first year following the appointment of a conservator, and biennially thereafter. However, there is no provision under current law for investigations of existing probate guardianships.</p> <p>New legislation that will become effective on January 1, 2003 addresses this issue. AB 3036 (Corbett) became law on September 30, 2002 as Stats. 2002, ch. 1115. Section 2 of the statute adds a new section 1513.2 to the Probate Code.</p> <p>Section 1513.2 will not require an investigation of an existing guardianship. Instead it will provide for a confidential written status report form. To the extent that resources are available, courts will be required to mail a blank report form to existing probate guardians annually together with a notice advising the guardian that he or she must complete the report and return it to the court.</p> <p>Thereafter, if the report has not been completed and returned or is incomplete, the court will be required to attempt to obtain the information called for in the report from the guardian or from other sources. If that effort fails to collect the information within 30 days after the status report is due, the court must either order the guardian to be available to the court investigator for an investigation or show cause</p>

why he or she should not be removed as guardian.¹

Subdivision (b) of section 1513.2 will require the Judicial Council to develop a form for the written status report. The form must request information the council deems necessary to determine the status of the guardianship, plus five specific items of information listed in the law.² The form must also warn guardians that they will be guilty of a misdemeanor if they willfully make a knowingly false material statement in the report. The required contents of the report are otherwise left to the council's discretion.

The stated purpose of the legislation, according to its sponsor, the California State Bar Conference of Delegates, is to give the court the tool to properly oversee guardianships where the minor has no estate to be accounted for. Under current law in that situation there is no required report to or mandatory review by the court. In time the court may lose track of the guardian and the minor.³

In response to the new law, the Probate and Mental Health Advisory Committee has prepared a proposed Judicial Council form confidential guardianship status report. The new form is based on three guardianship status reports that were developed and have been used by the superior courts in Alameda, San Bernardino, and San Francisco Counties.

The five pieces of information required by the statute and listed in footnote 2 above are requested in items 1a and 2a–d of the proposed new form. The second sentence in the Notice to Guardian box at the top of page 1 of the form is the mandatory warning statement required

¹ The statute does not specify when the report will be due. However, it does require the report to be completed and returned to the court annually. We infer from this provision that the report will be due on each anniversary of the date the guardian was appointed, or the date Letters of Guardianship were issued.

² The five mandatory items of information are:

1. The guardian's present address;
2. The name and birth date of the child under guardianship;
3. The name of the school in which the child under guardianship is enrolled;
4. If the child under guardianship is not in the guardian's home, the name, relationship, address, and telephone number, of the person(s) with whom the child resides; and
5. If the child under guardianship is not in the guardian's home, why the child was moved.

³ Sen. Rules Com., Off. of Sen. Floor Analysis, 3rd reading analysis of AB 3036, Arguments in Support (2001-2002 Reg. Sess.) as amended August 26, 2002, pp. 4–5.

by the new law.

The rest of the information requested in the form is a composite of the information requested in the three local forms noted above, with the following exception. The advisory committee added the instruction in item 2f on page 1 of the form requesting that the guardian attach a copy of the child's last report card to the report.

The advisory committee solicits the public's comments generally concerning the information that should be required of guardians beyond the items identified in the statute, and specifically concerning the committee's instruction requesting attachment of a copy of the child's last school report card.

Despite the sponsor's statement of its intended purpose, the statute says that *every guardian* must complete the status report, without differentiating between guardians of the person and guardians of the estate. For this reason the proposed form has been designed for completion and execution by all guardians, including estate guardians. In this respect the form follows the format of two of the three local report forms. However, most of the information requested in the form would ordinarily be within the responsibility of a guardian of the person.

Some of the local report forms reviewed by the advisory committee call for considerably more financial information than is required in the proposed Judicial Council form. However, the duty to complete and file the status report does not excuse or modify the estate guardian's duty to fully account to the court for his or her management of the minor's estate. The financial information requested in those local forms would be disclosed in the guardian's account.

The proposed report form is conservative on this issue. It calls for only a minimum of financial information in items 4d and 5, concerning, respectively, financial contributions by a child's parents, and sources of a child's income and expenses paid with that income. This is information that a guardian of the person would be expected to know or to discover even if there is no guardian of the estate, or even if someone else has been appointed to that office.

The advisory committee believes that the status report's emphasis should be on the minor's current circumstances, not on his or her finances. In the committee's view, most, if not all, of the financial disclosures should be reserved for the estate guardian's account. The

advisory committee seeks the public's comments concerning this issue.

A draft copy of the proposed new Judicial Council form GC-251,
Confidential Guardianship Status Report, is attached.

Attachment

You must complete this form, sign it, and return it to the court at the end of each year that you are the guardian of the person or the estate of a minor. A guardian who willfully submits any material information required by this form that he or she knows to be false is guilty of a misdemeanor.

1. **Guardian*** (continue on Attachment 1 if necessary. If there is more than one guardian, each must provide the information requested in items 1a-d, and each must sign this form):
 - a. (Name):
 - b. Present address (street address, including apartment number, city, state and zip code, of each guardian):

Years at this address: ☐ Rent ☐ Own
 - c. Telephone (home): Telephone (work):
 - d. Significant health problems currently experienced by you or by your spouse (describe. Complete on Attachment 1d if necessary):
- * If you are the guardian of a child's estate, you must file regular accountings with the court in addition to this report.
2. **Child Under Guardianship** (continue on Attachment 2 if necessary. If you are the guardian for more than one child under the above case number, please provide the information requested in items 2a-n separately for **each** child):
 - a. (Name):
(Birth date): The child ☐ is ☐ is NOT now living in my home.
 - b. (If the child is not now living in your home, state the complete name, relationship to minor, address, and telephone number of the person the child is living with. Complete on Attachment 2b if necessary):
 - c. (State when and why the child left your home. Complete on Attachment 2c if necessary):
 - d. Name and address of child's school: e. Grade:
 - f. (Describe the child's current progress in school, including grades, attendance, behavior problems, tutoring programs, etc. Complete on Attachment 2f if necessary. Attach a copy of the child's last report card, progress report, or other school record that you received):
 - g. (Describe any current medical or dental problems the child is having. If none, so state. Complete on Attachment 2g if necessary):
 - h. The child ☐ is ☐ is NOT current on immunizations.

GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):	CASE NUMBER:
MINOR	

- i. (Name, address, and telephone number of each physician or dentist now seeing or treating the child. If the child has not been seen by a physician or dentist for any problem described in item 2g above, so state. Complete on Attachment 2i if necessary):
- j. (Describe any emotional or behavioral problems the child is having that cause you concern. Continue on Attachment 2j if necessary):
- k. (Describe any traumatic events, or major disruptions or changes the child has experienced, e.g., death of a parent, abuse, major illness. Continue on Attachment 2k if necessary):
- l. (Name, address, and telephone number of any therapist the child has been seeing for any of the problems described in items 2j and 2k above. If the child has not been seeing a therapist, so state. Continue on Attachment 2l if necessary):
- m. (Describe the child's social activities/services, including recreational, educational, church, social, occupational, or cultural activities. Continue on Attachment 2m if necessary):
- n. (Describe your goals for the child):
3. **Other Persons in the Child's Home** (Complete on Attachment 3 if necessary. If you are the guardian for more than one child under the above case number, please provide the information requested in items 3a–b separately for **each** child):
- a. (Name, age, and relationship to the child and to you of each person now living in the child's home. Complete on Attachment 3a if necessary):
- b. (Name of each person identified in item 3a who moved in to the child's home after the guardianship was established):
4. **Child's Natural Parents** (Complete on Attachment 4 if necessary. If you are the guardian for more than one child under the above case number, please provide the information requested in items 4a–d separately for **each** child):
- a. (1) (Address and telephone number of child's mother):
- (2) (Address and telephone number of child's father):
- b. Visits of child's mother: ☐ Yes ☐ No Frequency: Average length:
- Visits ☐ are ☐ are not supervised. (Name and telephone number of person who is present during visits):
- (Address of overnight visits. If none, so state):
- (Describe any problems regarding the visits. Complete on Attachment 4b if necessary):
- c. Visits of child's father: ☐ Yes ☐ No Frequency: Average length:
- Visits ☐ are ☐ are not supervised. (Name and telephone number of person who is present during visits):
- (Address of overnight visits. If none, so state):
- (Describe any problems regarding the visits. Complete on Attachment 4c if necessary):
- d. Financial contribution of either or both natural parents. ☐ Yes ☐ No Average monthly amount: \$

GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):	CASE NUMBER:
MINOR	

5. **Child's Income** (complete on Attachment 5 if necessary. If you are the guardian for more than one child under the above case number, please provide the information requested in items 5a–b separately for **each** child):
- a. Sources (describe and state average monthly amount of each):

- b. Expenses paid from this income (describe and state average monthly amount of each):

6. **Need for Guardianship**
The guardianship ☐ is ☐ is NOT still necessary (state reasons. Continue on Attachment 6 if necessary. If you are the guardian for more than one child under the above case number, please provide the information requested in item 6 separately for **each** child):

7. **Successor or Co-Guardian**
It ☐ would ☐ would not be helpful to have a successor guardian or a co-guardian in the future (state reasons. Continue on Attachment 7 if necessary. If you are the guardian for more than one child under the above case number, please provide the information requested in item 7 separately for **each** child):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF GUARDIAN)

(TYPE OR PRINT NAME)



(SIGNATURE OF GUARDIAN)